

3

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/088,920	KIZAKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yong D. Pak	1652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on May 31, 2005.
2. ☒ The allowed claim(s) is/are 5,6,8-22,24 and 25.
3. ☒ The drawings filed on 28 February 2005 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☒ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br/>Paper No./Mail Date <u>2/1/05</u></li> <li>4. <input checked="" type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
|---|--|

### **DETAILED ACTION**

This application is a 371 of PCT/JP01/06619.

The amendment filed on May 31, 2005, amending claims 6 and 17-19, has been entered.

Claims 1-6 and 88-22 are pending. Claims 1-4 and 20-21 are withdrawn.

Claims 5-6, 8-19 and 22 are under consideration.

### ***Election/Restrictions***

Claims 5, 8 and 13 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 20-21, directed to the process of making or using the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Claims 20-21 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Claims 1-4 are also hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Since all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement made in the Office action mailed on May 19, 2004 is hereby withdrawn.

***Response to Arguments***

Applicant's amendment and arguments filed on May 31, 2005, have been fully considered and are deemed to be persuasive to overcome the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Mulkeen on August 8, 2005.

The application has been amended as follows:

**IN THE CLAIMS:**

Please amend the claims as follows.

A) Cancel claims 1-4 without any prejudice.

B) In claim 5, line 1,

Replace "coding for" with -- encoding--.

Art Unit: 1652

C) In claim 6, line 1,

Replace "coding for" with -- encoding--.

D) In claim 6, line 2,

Replace "an enzyme activity comprising" with -- the enzyme activity of --.

E) In claim 6, line 4,

Delete "a nucleotide sequence of"

F) In claim 10, line 2,

Replace "coding for" with -- encoding--.

G) In claim 13, line 1,

Replace "A transformant comprising" with -- An isolated host cell transformed with --.

H) In claim 14, line 1,

Replace "A transformant containing" with -- An isolated host cell transformed with --.

I) In claim 14, line 2,

Replace "containing" with -- comprising --.

J) In claim 14, line 2,

Replace "coding for" with -- encoding --.

Art Unit: 1652

K) In claim 16, line 1,

Replace "a host thereof" with -- the host --.

L) In claim 18, line 1,

Replace "A transformant" with -- An isolated transformed host cell --.

M) In claim 20, line 2,

Replace "reacting" with -- culturing --.

N) In claim 20, line 2,

Replace "and/or a treated product thereof with" with --in presence of --.

O) In claim 21, line 1,

Replace "the step of reacting" with --step (a) --.

Add the following new claims.

P) -- 24. An isolated and purified polypeptide encoded by the DNA molecule of claim 5. --

Q) -- 25. An isolated and purified polypeptide encoded by the DNA molecule of claim 6, wherein said polypeptide comprises the enzyme activity of asymmetrically reducing N-benzyl-3-pyrrolidinone into (S)-N-benzyl-3-pyrrolidinol. --

Art Unit: 1652

***Allowable Subject Matter***

Claims 5-6, 8-22 and 24-25 are allowed.

***Requirement for the Deposit of Biological Material***

Applicants have assured that an acceptable deposit of *E. coli* HB1101 (pTSBH, pSTVG) will be made on or before the date of payment of the issue fee. Therefore, this allowance is contingent upon the deposit of plasmid pTSBH, plasmid pTSBG1 and any bacterial strains transformed with said plasmids.

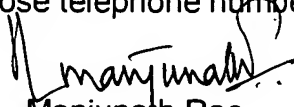
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Pak whose telephone number is 571-272-0935. The examiner can normally be reached 6:30 A.M. to 5:00 P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Yong D. Pak  
Patent Examiner 1652

  
Manjunath Rao  
Primary Patent Examiner 1652